IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

CRP.No. 448 of 2006(F)

AGAINST THE ORDER DATED 16/06/2006 IN IA.1261/06 IN OS.410/2005 of ADDL.MUNSIFF COURT,KOCHI

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REVN. PETITIONER: IST DEFENDANT

XAVIER, AGED 43,
S/O.JOSEPH, KALAPURACKAL,
PERUMPILLY, NARAKKAL,
P.O.P.KOCHI.

BY ADV. SRI.S.B.PREMACHANDRA PRABHU
SRI.G.SREENIVASA PRABHU

RESPONDENTS: PLAINTIFFS & DEFENDANT NO.2
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1. P.A.JOY, AGED 46,
S/O.ANTHAPPAN, PATTAPARAMBIL,
ELAMKUNNAPPUZHA MURI, ELAMKUNNAPPUZHA VILLAGE,
KOCHI TALUK.

2. P.R.ANTONY, AGED 56,
S/O.RAPHEL, PULIKKAL HOUSE,
ELAMKUNNAPPUZHA.P.O, ELAMKUNNAPPUZHA MURI,
ELAMKUNNAPPUZHA VILLAGE, KOCHI TALUK.

3. ELAMKUNNAPUZHA GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, ELAMKUNNAPPUZHA GRAMA PANCHAYATH OFFICE, MALIPPURAM.P.O.

R1 & R2 BY ADV. SRI.S.SACHITHANANDA PAI
R3 BY SRI.M.V.BOSE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.448 OF 2006

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Dated this the 13th day of July, 2007

O R D E R

This revision petition is preferred against the order of the Addl.Munsiff's Court, Kochi in I.A.No.1261 of 2006 in O.S.No.410 of 2005. By the said order, the Munsiff permitted the plaintiff to withdraw the suit with liberty to file a fresh suit. It is that order which is under challenge in this C.R.P..

2. Now in fairness both the counsel submits that in the light of the order passed by this court, the plaintiff issued notice to the Panchayat and had instituted a suit O.S.No.258 of 2006 before the Munsiff's Court, Kochi and it is pending. The suit was permitted to be withdrawn on the ground that there is a contention regarding non-issuance of notice to the Panchayat. The only method to cure that defect is to withdraw the suit and file a fresh suit. The learned Munsiff has used his discretion and granted an opportunity to the plaintiff to present a new suit and since that matter has been filed and it is pending, I am not entering into the merits of the case.

However, I dispose of this C.R.P. with a direction that the plaintiff

shall not again attempt to withdraw the suit and file another suit. The court below shall also make expeditious disposal of O.S.No.258/2006 and both the parties are directed to co-operate with the court to take up the matter and dispose of the same.

C.R.P. is disposed of accordingly.

M.N.KRISHNAN, JUDGE

Cdp/-